Filed 4/6/04 In re Skyler O. CA4/3

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re SKYLER O., a Person Coming Under the Juvenile Court Law.	
ORANGE COUNTY SOCIAL SERVICES AGENCY, Plaintiff and Respondent, v. GEENA O., Defendant and Appellant; AARON R., Defendant and Respondent.	G032764 (Super. Ct. No. DP005731) O P I N I O N

Appeal from orders of the Superior Court of Orange County, Richard Behn, Judge. Affirmed.

Christopher R. Booth, under appointment by the Court of Appeal, for Defendant and Appellant.

J. Marie Gray for Defendant and Respondent.

Benjamin P. de Mayo, County Counsel, and Mark R. Howe, Deputy County Counsel, for Plaintiff and Respondent.

No appearance for the Minor.

* * *

Substantial evidence supports the juvenile court's order requiring the mother's visitation to be monitored by a peace officer. The mother's argument that the order she bear the cost of the monitor has a negative impact on her is waived because she does not support her contentions with references to the record. We affirm.

I

FACTS

The minor, Skyler O., is now almost three years old. She was taken into custody on November 16, 2001, by the Irvine Police Department due to allegations of general neglect. Officers were dispatched to the home after receiving a telephone call from the mother's brother that the mother, Geena O., was alone with her seven-month-old daughter, was an alcoholic and had threatened to kill herself and the minor. The reporting party said the mother had previously attempted suicide by slashing her wrists, drowning herself and taking medications.

When the officers arrived at the front door, they could hear an infant crying. They knocked and requested the mother open the door. At first, she refused, but finally opened the door. The mother displayed extreme mood swings, from sobbing and speaking unintelligibly to shouting at the officers. There were significant indications she was intoxicated. When she was told she would be arrested, the mother became very upset and began screaming. She had to be restrained with handcuffs.

The mother and the minor were the only persons in the home. After the mother was arrested, she consented to a blood alcohol screening test and provided two samples which were analyzed at .260 and .272 percent alcohol in her blood.

The minor did not appear to have any physical injuries. It was noted her activity level was less than would have been expected from a typical seven-month-old. The apartment was somewhat messy and cluttered. The minor was mobile and had access to numerous items which are hazardous to an infant. On November 20, 2001, Orange County Social Services Agency (SSA) placed the minor with her maternal grandparents.

The mother and the father are not married and do not reside together. The mother had a prior contact with the police on September 19, 1998, when they stopped her while she was driving a vehicle. She displayed symptoms of extreme intoxication.

The court found the minor's father, Aaron R., to be the presumed father on January 8, 2002. He was residing with the paternal grandparents in Orange County and became the primary care giver for the minor. SSA reported the minor was comfortable and well cared for with no reported adjustment problems under her father's care. The father is employed and placed the minor on his insurance plan which covers her for medical, dental, emergency and vision care.

On September 16, 2002, during a time the mother was permitted only 24 hours of unmonitored visitation with the minor, the social worker was unable to discover whether or not the mother had unlimited unmonitored visitation with the minor. The maternal grandmother questioned whether she still needed to provide reports on the mother's visitation with the minor, "since she has her the whole weekend."

On September 21, 2002, during an unmonitored visit with the mother, the minor cut her head, requiring 14 sutures. The mother telephoned the father who told her to take the minor to Mission Community Hospital's child trauma unit. According to the father, the mother became upset at this suggestion and hung up on him. Nonetheless, the minor was taken to that hospital with both parents at her side. The father reported the incident to the social worker, but the mother did not.

The October 7, 2002 report from SSA concludes, "The undersigned continues to have concerns about the emotional volatility of the maternal family members that is directed at the child's father and at the undersigned. The undersigned is concerned about maternal family members' attempts to manipulate the father and the undersigned through anger, intimidation, demands, threats, and personal accusations. The undersigned is also concerned about the mother's lies and omissions."

A child abuse report filed on November 10, 2002 was substantiated by SSA. The incident involved the maternal grandparents removing the minor from the mother's care during an unmonitored visit because the mother was intoxicated. Afterward, the minor displayed signs of being traumatized. She was anxious and tearful. The father reported she was clinging to him quite a bit and that she had been hitting and screaming.

The mother entered an in-patient substance abuse treatment program on December 13, 2002. A week later, she broke into her parents home and attacked the maternal grandfather with a seven and one-half inch butcher knife. She had three other knives concealed under her clothes.

The mother was arrested on December 21, 2002 for assault with a deadly weapon and obstruction of a police office during arrest. She was arrested, released and then re-arrested on December 31, 2002. She was charged with threatening with a deadly object, battery on a police officer and obstruction of justice. She was "sentenced to 60 days."

When the social worker learned the maternal grandfather expressed belief that the mother would not have hurt him or anybody else after breaking into his home while wielding a butcher knife, the social worker limited the minor's contact with the maternal family to monitored visits. The father said he was confident he would be able to assume all responsibilities for the minor's care.

SSA's January 30, 2003 report concludes, "[The mother] . . . appears to be a danger to herself and to others, and [the minor] will continue to need the protection of the Court, in the form of a restraining order against her mother and in minimal visitation for her mother, with an armed police officer. [¶] The child's father is prepared to assume full responsibility for [the minor's] care. Therefore, the undersigned respectfully recommends that the child's dependency be terminated."

After the mother's release from jail, she had a visit with the minor on February 8, 2003. The visit and all subsequent visits were monitored by a peace officer. The officer reported the minor has no trouble adjusting to being dropped off for the visits or his presence. He said both the mother and the minor exchanged affection and appear to enjoy the visits.

On February 19, 2003, the mother entered a voluntary residential recovery program involving two six-month phases. The mother informed the social worker she no longer needed a counseling referral. The maternal grandparents have continued visiting the minor when she is in the company of her father or the paternal grandparents.

The mother was diagnosed with bipolar disorder and prescribed with medications which make a significant difference in her ability to function. SSA's April 30, 2003 report says the mother expressed an understanding that she is unable to care for the minor at that time and that she is well cared for by her father.

The mother's boyfriend accompanied her to the May 25, 2003 monitored visit. The officer reported to the social worker that the mother said she obtained permission from the social worker for the boyfriend's presence. In fact, no authorization was given by the social worker.

On June 5, 2003, the mother telephoned the social worker to inform her she was married the day before to a man she met at the residential program. In the June 11, 2003 report, the social worker expressed concern that "without proper monitoring and accountability for the mother from a professional therapist, who is more equipped to deal

with her unique problems, the mother could easily revert to her old dysfunctional habits, which could increase her stress and destabilize her."

On July 10, 2003, the juvenile court granted de facto parent standing to the maternal grandparents. On July 22, 2003, the court declared the child proceedings terminated. Exit orders were made. Joint legal custody was given to the mother and the father, physical custody with the father. Visitation with the mother was ordered for two hours every Saturday. Her visitation was to be monitored by a peace officer whose cost she must pay. The maternal grandparents were given visitation since the court found that a bond had formed between the grandparents and the minor and their restraining order against the mother was ordered to remain.

The mother argues on appeal there is no substantial evidence to support the juvenile court's order requiring a peace officer to be present during visitations. She also claims the court's order constitutes an "unconsidered, indefinite fiscal burden" on her and violates her due process rights.

II

DISCUSSION

Welfare and Institutions Code, section 362.4 provides statutory authority for the juvenile court to make custody and visitation orders when it terminates jurisdiction. "Any order issued pursuant to this section shall continue until modified or terminated by a subsequent order of the superior court." It is the mother's position that the juvenile court's visitation order requiring her visits with the minor to be monitored by a peace officer[1] lacks the support of substantial evidence.

Under the substantial evidence test, it is neither the duty nor the right of the appellate court to pass on the credibility of witnesses, resolve conflicts in the evidence or determine where the weight of the evidence lies. (*In re Megan S.* (2002) 104 Cal.App.4th

[1] The mother's brief states the court ordered an armed peace officer, but the record reflects the court ordered only that her visits to be monitored by a peace officer.

247, 251.) The mother appropriately cites the case of *In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420, for the proposition that a parent has the burden of demonstrating there is not evidence of a sufficiently substantial character to support the court's order.

The evidence in the record includes a November 16, 2001 telephone call from the mother's brother that the mother had threatened to kill herself and the then-seven-month-old minor. The mother displayed extreme mood swings at times. During an unmonitored visit with the mother on September 21, 2002, the minor's head was cut, requiring 14 stitches. On December 13, 2002, the mother attacked the maternal grandfather with a butcher knife. On December 31, 2002, the mother was charged with battery on a police officer and obstruction of justice, for which she served 60 days in jail. SSA reported to the court that the mother appears to be a danger to herself and others. Sufficient evidence supports the juvenile court's order requiring the mother's visits to be monitored by a peace officer.

The mother next argues the juvenile court's order requiring her to pay for the monitor "constituted an unconsidered, indefinite fiscal burden" on her. In making this argument, the mother cites to the court reporter's record of the social worker's testimony that she believes the monitor charges $40 an hour with a two-hour minimum. But there is no citation to the record regarding any evidence the court refused to consider the fiscal impact on the mother. In fact, there was evidence the mother was employed as an executive administrative assistant for a property management company.

To the extent the mother relies on information not cited to us, we deem her argument waived. An appellate court is not required to discuss or consider points which are not supported by citation to the record. (*Kim v. Sumitomo Bank* (1993) 17 Cal.App.4th 974, 979.) Otherwise, should her circumstances improve, she will have the opportunity to seek modification of the order based on a showing of the best interest of the minor. (See *In re Michael W.* (1992) 8 Cal.App.4th 190, 194-197.)

III

DISPOSITION

The orders are affirmed.

MOORE, J.

WE CONCUR:

SILLS, P.J.

BEDSWORTH, J.